

EASTERN DISTRICT OF TEXAS

CIVIL ACTION NO. 1:20-CV-61

Defendants.

On November 2, 2020, plaintiff was ordered to pay an initial partial filing fee of \$24.51. Plaintiff's compliance was due on or before the expiration of thirty (30) days from the date of the order. The statement of plaintiff's prisoner account submitted along with his application to proceed *in forma pauperis* showed an available balance of \$127.54 in his account. As of this date, plaintiff has neither complied with the order of the court to pay the filing fee nor shown good cause for failing to do so. On March 24, 2021, plaintiff submitted another motion to proceed *in forma pauperis*. The motion, however, did not contain a statement of plaintiff's trust account from prison officials or any statement from plaintiff regarding the current balance in his account.

Plaintiff was warned of the potential dismissal of his lawsuit for failing to comply with the order to submit a proper application to proceed *in forma pauperis*. Such warning, however, has proven futile in prompting the diligent prosecution of this case. Plaintiff has failed to show he made any attempt to comply with the order.


Additionally, a review of the website for the Bureau of Prisons reveals plaintiff was released from confinement on June 24, 2021. See <https://www.bop.gov/inmateloc/>. However, plaintiff has failed to notify the court of an address at which he may be contacted despite having sufficient time in which to do so.

The court has considered lesser sanctions but finds no lesser sanction appropriate because plaintiff has failed to comply with the initial requirement for all litigants, to pay the required filing fee or, as required under the PLRA, submit a properly certified application to proceed *in forma pauperis* and pay an initial partial filing fee. Additionally, plaintiff has prevented the court from communicating with him following his release. The dismissal of this action will be without prejudice, and plaintiff is not barred by the applicable two-year statute of limitations. Therefore, plaintiff may refile his lawsuit after obtaining the proper information necessary for the court to determine his eligibility to proceed on an *in forma pauperis* basis.

ORDER

Accordingly, the findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendation.

SIGNED at Beaumont, Texas, this 6th day of July, 2021.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE